

Policy Title:	Licensing Umbrella Rules – OAR			
Policy Number:	II-C.1 413-215-0001 thru 0131		Effective Date:	10/17/08

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

History

Reference(s):

- ORS 409-010
- ORS 409.050
- ORS 418.005
- ORS 418.205-327
- ORS 418.990-998
- ORS 443.400 to 443.455 (DD Services)
- ORS 443.830-835 (DD Services)
- ORS 183.413-4780 (Contested case hearings)
- ORS 23.030 to 23.105 (Writ of execution proceedings)
- ORS 23.410 to 23.600 (Writ of execution proceedings)
- ORS 23.710 to 23.730 (Supplementary proceedings)
- ORS 23.285 to 335 (Garnishee proceedings)
- ORS 18.360 (Renewal of judgment)
- ORS 417.200 through 260 (Interstate Compact on the Placement of Children)
- DHS Criminal History Rules, OAR 407-007-0200 through 0380
http://www.oregon.gov/DHS/admin/dwssrules/adopted/407_007_b.pdf
- I-E.2.1, Placement of Indian Children, OAR 413-070-0100 to 0260 (ICWA)
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-e21.pdf
- II-C.1.1, Licensing Academic Boarding Schools
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c11.pdf
- II-C.1.2, Licensing Foster Care Agencies
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c12.pdf
- II-C.1.3, Licensing Adoption Agencies
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c13.pdf
- II-C.1.4, Licensing Residential Care Agencies
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c14.pdf
- II-C.1.5, Licensing Therapeutic Boarding Schools
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c15.pdf

- II-C.1.6, Licensing Homeless, Runaway, and Transitional Living Shelters
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c16.pdf
- II-C.1.7, Licensing Day Treatment Agencies
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c17.pdf
- II-C.1.8, Licensing Outdoor Youth Programs
http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-c18.pdf

Form(s) that apply:

- None referenced.

Rules:

413-215-0001

Regulation of Child-caring Agencies and Residential Programs for Children

- (1) The Department is required to regulate and license certain organizations and agencies that care for children. The rules in this division of rules (413-215) establish the requirements of the Department for obtaining and maintaining the required license, and the policies of the Department required by ORS 418.205 to 418.327.
- (2) These umbrella rules (OAR 413-215-0001 to 413-215-0131) apply to both an organization that is a *private child-caring agency* (defined in OAR 413-215-0006) and an organization or school that offers a residential program for children (regulated by ORS 418.327). These rules apply to all of the following agencies:
 - (a) An *adoption agency* (defined at OAR 413-215-0406 and further regulated by OAR 413-215-0401 to 413-215-0481).
 - (b) An agency (which is further regulated by OAR 413-215-0301 to 413-215-0396) that offers to place children for foster care by taking physical custody of and then placing the children in foster homes approved by the agency or by the state.
 - (c) An agency (which is further regulated by OAR 413-215-0501 to 413-215-0586) that provides residential care services to children 24 hours a day.
 - (d) An agency that provides an *outdoor youth program* (defined in OAR 413-215-0911 and further regulated by 413-215-0901 to 413-215-1031).
 - (e) An agency (which is further regulated by OAR 413-215-0801 to 413-215-0876) that provides day treatment for children with emotional disturbances.
 - (f) An agency (which is further regulated by OAR 413-215-0701 to 413-215-0766) that provides residential services for homeless or runaway youth, pregnant or parenting girls, or other youth working towards independent living.
 - (g) An agency providing other services for children similar to the services covered by subsections (a) to (f) of this section.

- (h) An academic boarding school (which is further regulated by OAR 413-215-0201 to 413-215-0276).
- (i) A therapeutic boarding school (which is further regulated by OAR 413-215-0601 to 413-215-0681).
- (j) Any other *agency* (defined at OAR 413-215-0006) that falls under ORS 418.205(2)(a).

(3) An *agency* must comply with all of the Department rules that apply to the *agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0006

Definitions

As used in OAR 413-215-0001 to 413-215-0131:

- (1) "Agency" means a *private child-caring agency* (under ORS 418.205(2)(a) and section (6) of this rule) or an organization or school that offers a residential program for children (regulated by ORS 418.327).
- (2) "Child" means an unmarried person who is under 18 years of age.
- (3) "Children" mean unmarried persons under 18 years of age.
- (4) "Department" means the Oregon Department of Human Services.
- (5) "Licensee" means a *private child-caring agency* or an organization or school that offers a residential program for children (regulated by ORS 418.327) and holds a license issued by the Department.
- (6) "Private child-caring agency" is defined by the definitions in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.
 - (a) A "child-caring agency" means an agency or organization providing:
 - (A) Day treatment for disturbed children;
 - (B) Adoption placement services;
 - (C) Residential care, including but not limited to foster care or residential treatment for children;
 - (D) Outdoor youth programs (defined at OAR 413-215-0911); or

- (E) Other similar services for children.
- (b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services.
- (7) "Program" means a set of one or more services provided by an *agency* that make the *agency* subject to the rules in Division 413-215.
- (8) "Substantial compliance" means a level of adherence to the rules in Division 413-215 and other applicable law that, although failing to meet one or more of the requirements of these rules, in the Department's estimation does none of the following:
 - (a) Constitute a danger to the health or safety of any individual.
 - (b) Constitute a willful or ongoing violation of the rights of children or families served by an agency.
 - (c) Prevent the accomplishment of the Department's purposes.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0011

Requirement to Obtain and Comply with License

- (1) Except for a *licensee* (defined in OAR 413-215-0006) subcontractor that provides limited services under OAR 413-215-0061(5)(b):
 - (a) An *agency* (defined in OAR 413-215-0006) must have a license issued by the Department in accordance with Division 413-215. An *agency* holding a license issued by the Department under these rules (a *licensee*) must at all times comply with the provisions of the license and with all laws (including rules) applicable to the *agency*.
 - (b) An *agency* may not represent itself as able to or purport to provide services governed by the rules in Division 413-215, except the services the *agency* is authorized by law (including rules) and licensed to provide.
- (2) An *agency* engaged in providing residential care for both adults and *children* (defined in OAR 413-215-0006) is subject to the rules in Division 413-215, unless each child residing in the agency's facility has a custodial parent residing in the facility.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0016

Requirements Related to Corporation Status

- (1) Only a corporation may receive a license from the Department under these rules (OAR 413-215-0001 to 413-215-0131). A limited liability company is an unincorporated association, and not a corporation, and may not be licensed under Division 413-215.
- (2) In-state and out-of-state corporations must meet all requirements of the Oregon Secretary of State, Corporation Division in order to receive a license from the Department.
- (3) An agency's articles of incorporation, its bylaws, or another written document approved by the board of directors must clearly set forth the purposes of the organization.
- (4) A *licensee* (defined in OAR 413-215-0006) must submit to the Department within seven business days each amendment to its articles of incorporation, bylaws, statement of its purposes, and name registration.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0021

Governance

- (1) Governing board requirements.
 - (a) An *agency* (defined in OAR 413-215-0006) must have a governing board that has responsibility for its mission, operation, policy, and practices. These responsibilities must be stated in writing.
 - (b) The governing board of an *agency* must be a board of directors consisting of no fewer than five responsible individuals of good moral character who are citizens or legal residents of the United States.
 - (c) An *agency* must maintain a list of the members of the governing board that includes the name, address, telephone number, board office, and term of membership for each.
 - (d) Members of the governing board of an *agency* that is a not-for-profit agency may not receive compensation for serving on the board, other than reasonable reimbursement for the expenses associated with their services.
- (2) Responsibilities of the governing board. The governing board of an *agency* must have all of the following responsibilities:
 - (a) To provide leadership for the *agency*.

- (b) To be responsible for establishing the agency's by-laws and policies, to monitor the agency's programs consistent with its policies and mission, and to guide program development.
 - (c) To adopt by-laws that provide a basic structure for the operation of the programs of the *agency*.
 - (d) To develop by-laws for selection and rotation of its members.
 - (e) To ensure the employment of a qualified executive director and to delegate appropriate responsibility to that individual for the administration, management, and operation of the *agency*, including the employment of all agency *staff* and the authority to dismiss any staff member.
 - (f) To formally evaluate the executive director's performance annually.
 - (g) To approve the annual budget of anticipated income and expenditures necessary to provide the services described in its program description.
 - (h) To review an annual report of actual income and expenditures.
 - (i) To obtain and review an annual independent financial review of financial records.
 - (j) To establish and ensure compliance with personnel practices for the selection and retention of staff sufficient to operate the *agency*.
 - (k) To ensure a written quality improvement program that identifies systematic efforts to improve its services.
 - (l) To keep permanent records of meetings and deliberations on major decisions affecting the delivery of services.
- (3) Executive director or program director requirements. An *agency* must operate under the direct supervision of an executive or program director appointed by the governing board. The executive director or program director must have all of the following qualifications:
- (a) Knowledge of the requirements for providing care and treatment appropriate to the agency's programs.
 - (b) Ability to maintain records on children and families, personnel, and the agency in accordance with these rules.
 - (c) Ability to direct the work of staff.
 - (d) No history of conduct indicating it may be unsafe to allow the individual to supervise the care of children.
 - (e) Health sufficient to carry out the duties of the position.

- (f) Good moral character, including honesty, fairness, and respect for the rights of others.
- (4) The executive or program director must be responsible for all of the following:
- (a) The daily operation and maintenance of the *agency* and its facilities in compliance with the rules in Division 413-215 and the established program budget.
 - (b) Administration of policies and procedures to ensure clear definition of staff roles and responsibilities, lines of authority, and equitable workloads that ensure safe and protective care, supervision, and treatment of the children served by the *agency*.
 - (c) Ensuring that only individuals whose presence does not jeopardize the health, safety, or welfare of the children served by the *agency* are employed or used as volunteers.
 - (d) Recruiting, employing, supervising, training, or arranging for training.
 - (e) Reporting to the governing board on the operation of the *agency*.
 - (f) Providing for appropriate staff to assume the executive or program director's responsibility for the operation and maintenance of the *agency* whenever the executive or program director is absent from the *agency*.
 - (g) Terminating from employment any staff member who is unsuitable or who performs in an unsatisfactory manner.
- (5) Suitability. In order for the Department to evaluate the suitability of an *agency* and its staff, the *agency* must immediately disclose to the Department all of the following information:
- (a) Each instance in which the *agency* or a member of its staff or board of directors has permanently lost the right to provide services to children or families in any jurisdiction, and the basis for each action.
 - (b) The circumstances and disposition of any licensing denial, suspension, or revocation; or any other negative sanction or proposed sanction by an oversight body against the *agency* or a member of its staff or board of directors, if the denial, suspension, or revocation; or any other negative sanction or proposed sanction results from conduct that is relevant to the *agency's*, staff's, or board member's ability or fitness to carry out the duties imposed by these rules and governing statutes.
 - (c) For the previous ten years, any disciplinary action against or investigation of the *agency* or a member of its staff or board of directors by a licensing or accrediting body, including the basis and disposition of each action, if the disciplinary action

or investigation results from conduct that is relevant to the agency's or staff or board member's ability or fitness to carry out the duties imposed by these rules and governing statutes.

- (d) Any instance in which the *agency* or a member of its staff or board of directors has been found guilty of any crime under federal, state, or foreign law.
- (e) Any civil or administrative violation involving financial irregularities by the *agency* or a member of its staff or board of directors under federal, state, or foreign law.
- (f) For the previous five years, any instance in which the *agency*, a member of its board of directors, or its executive or program director has filed for bankruptcy.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0026

Financial Management

- (1) Budget. An *agency* (defined in OAR 413-215-0006) must operate under an annual line-item budget, showing planned expenditures and sources of income, which has been approved by the governing board as the plan for management of its funds.
- (2) Funding. The annual budget of a *licensee* (defined in OAR 413-215-0006) must document that the *licensee* has sufficient funds to meet the requirements of licensure, to operate the programs the *licensee* is licensed to operate, and to provide the services the *licensee* has stated the *agency* (defined in OAR 413-215-0006) will provide.
- (3) Fiscal accountability. An *agency* must maintain complete and accurate accounts, books, and records following generally accepted accounting principles of accounting management.
- (4) A for-profit *agency* must meet the financial reporting requirements of state and federal regulations and may not have filed for bankruptcy within five years prior to the date of application for licensure.
- (5) Insurance. An *agency* must at all times maintain each of the following:
 - (a) General liability insurance in an amount that is reasonably related to the exposure to risk but in no case in an amount less than \$1,000,000 for each occurrence and \$3,000,000 aggregate.
 - (b) Adequate fire insurance.
 - (c) Adequate auto insurance if the *agency* owns or operates a vehicle.

(6) An *agency* must have an independent financial review performed annually.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0031

Cultural, Ethnic, and Gender-specific Services

An *agency* (defined in OAR 413-215-0006) must make efforts to ensure services provided to children and families are compatible with the cultural, ethnic, and gender considerations the children and families served by the *agency* consider important. The *agency* must ensure that written materials are made available in other languages as necessary, or as indicated by the demographic environment or the population served by the program.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0036

Conflict of Interest

An *agency* (defined in OAR 413-215-0006) must have a conflict-of-interest policy that prohibits preferential treatment of board members, employees, volunteers, and contributors. The policy must outline safeguards when the *agency* allows dual relationships, such as employees serving as foster parents.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0041

Code of Ethics

If an *agency* (defined in OAR 413-215-0006) subscribes to a code of ethics, or if the *agency* expects that all or some portion of its staff subscribe to a code of ethics, the *agency* must identify the code and make it available for review upon request.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0046

Children and Families Rights and Grievance Policy

(1) Rights of children and families served by the agency. An *agency* (defined in OAR 413-215-0006) must subscribe to a policy regarding the rights of the children and families the *agency* serves, and must provide them a written copy of its policy.

(2) Grievance Procedures.

- (a) An *agency* must have written procedures for the children and families the *agency* serves to submit a grievance. For an *academic boarding school* (defined in OAR 413-215-0206), this subsection only applies to grievances about health or safety issues. The *agency* must provide the procedures to each child and family. The procedures must include all of the following:
 - (A) A process likely to result in a fair and expeditious resolution of a grievance.
 - (B) A prohibition of reprisal or retaliation against any individual who files a grievance.
 - (C) A procedure to follow, in the event the grievance is filed against the executive director, that ensures that the executive director does not make the final decision on the grievance.
 - (D) The name, address, and phone number of –
 - (i) A licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department; and
 - (ii) For each *agency* that is not an *academic boarding school*, any other governmental entities with oversight responsibilities.
- (b) Grievances and complaints filed with the *agency* and all information obtained in their resolution must be maintained for a minimum of two years and provided to the Department upon request.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0051

Resources Required

- (1) An *agency* (defined in OAR 413-215-0006) must ensure that it has sufficient space, equipment, and office equipment to deliver its services within Oregon.
- (2) An *agency* must employ or contract for a sufficient number of employees to perform the functions regulated by these rules and to provide adequate care, safety, protection, and supervision of the children and families the *agency* serves.
- (3) The *agency* must ensure that a individual who fulfills more than one staff function or position meets the requirements for each position.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0056

Policies and Procedures

For each *program* (defined in OAR 413-215-0006) it is licensed to operate, a *licensee* (defined in OAR 413-215-0006) must have and follow comprehensive policies and procedures that are well organized, accessible, and easy to use. These policies and procedures must include expectation around child abuse reporting, consistent with ORS 419B.005, 419B.010, and 419B.015.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0061

Personnel

- (1) Staff requirements and hiring. In order to ensure that the *agency* (defined in OAR 413-215-0006) uses only staff and volunteers who do not jeopardize the health, safety, or welfare of children, an *agency* and its contractors must meet all of the following requirements:
 - (a) Comply with the Department's criminal records history rules at OAR 407-007-0200 to 407-007-0370 and the *agency* must appoint a Contact Person (CP), designated to receive and process criminal history and child abuse check request forms.
 - (A) The CP may make preliminary fitness determinations under the authority of the Department when there is no indication of potentially disqualifying crimes or conditions;
 - (B) Final fitness determinations are made by the Department, the CP is not authorized to make final fitness determinations.
 - (b) Obtain background and reference checks.
 - (c) Employ individuals who meet the staff minimum qualifications.
- (2) Personnel policies of the *agency* and its contractors must include all of the following:
 - (a) For each staff position, a job title and a written job description that defines the qualifications, duties, and lines of authority for the position.
 - (b) A staff development plan providing for opportunities for professional growth through supervision, training, and experience.

- (c) Procedures for a written annual evaluation of the work and performance of each staff member that include provision for employee participation in the evaluation process.
 - (d) A description of the termination procedures established for resignation, retirement, and dismissal.
 - (e) A written grievance procedure for staff.
- (3) Personnel Files. The *agency* and its contractors must have a personnel file for each employee that is maintained for a minimum of two years after the termination date of each employee and includes all of the following:
- (a) A record of education, training, and previous employment.
 - (b) Documentation of reference checks.
 - (c) Criminal records and child abuse check clearance and disposition.
 - (d) Annual performance evaluations.
 - (e) Ongoing record of training received.
 - (f) Records of personnel actions.
 - (g) Starting and termination dates, and reason for termination.
 - (h) A current job description.
- (4) Staff orientation. An *agency* must provide orientation to each newly hired employee within 30 days of employment on all of the following subjects:
- (a) *Agency* policies and procedures.
 - (b) Ethical and professional guidelines.
 - (c) Organizational lines of authority.
 - (d) Attributes of population served.
 - (e) Child-abuse reporting laws and requirements.
 - (f) Privacy laws.
 - (g) Emergency procedures.
- (5) Contractor-related requirements.

- (a) If an *agency* contracts with other private providers or individuals in lieu of or in addition to hiring permanent employees, the *agency* must ensure that the contractor meets the applicable requirements of this rule and the rules in Division 413-215 specific to the type of service the contractor provides.
- (b) If the *agency* contracts to provide any of its services:
 - (A) The *agency* must ensure the contractor has a process to screen its employees for professional conduct and sufficient methods for holding its employees accountable.
 - (B) The contract between the *agency* and contractor must specify all of the following:
 - (i) The services the contractor provides.
 - (ii) The contractor's fees.
 - (iii) Disclosure of information from the contractor to the *agency*.
 - (iv) Lines of authority between the contractor and the *agency* and among employees of the contractor in connection with the provision of services.
 - (v) The awareness of the contractor of applicable Department rules and requirements.
 - (vi) Any liability of the *agency* for acts of the contractor, any rights of indemnity, and any limitations on liability of the *agency* or contractor.
 - (C) The *agency* must amend any contracts that started prior to the effective date of this rule to comply with this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0066

Privacy

- (1) An *agency* (defined in OAR 413-215-0006) may not disclose any identifying information of a child, including a picture, without first obtaining the written consent from the child's parents or legal guardians.
- (2) An *agency* must ensure the privacy of all information that identifies a child or family the *agency* serves. An *agency* may not disclose such information without proper written consent or as otherwise allowed by law.

- (3) An *agency* must have a written policy that addresses protection of the privacy of children and families the *agency* serves or has served.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0071

Records and Documentation

With respect to the records on children and families an *agency* (defined in OAR 413-215-0006) serves and to other records maintained by an *agency*, the *agency* must meet all of the following requirements:

- (1) The *agency* must accurately prepare and safely store its records and ensure the records are readily available for inspection by the Department.
- (2) All entries in records required by the rules in Division 413-215 must be permanent, legible, dated, and signed by the person making the entry.
- (3) Records must be uniform in organization, readily identifiable and accessible, current and complete, and contain all of the information required of the *agency* by the rules in Division 413-215.
- (4) Records must be corrected, when necessary, by the use of a single line drawn through the incorrect information, the addition of the correct information, a notation of the date the correction is made, and the initials of the person making the correction. No "white out," eraser tape, or other means of eradicating information may be used to make a change to a record.
- (5) Fiscal records must be kept that are accurately prepared and properly reflect all direct and indirect revenues and expenditures for the operation and maintenance of the *agency*.
- (6) The *agency* must keep reports of all inspections of the *agency* and its facilities for not less than five years after an inspection.
- (7) The *agency* must maintain a permanent registry of each child the *agency* serves. The registry must include the child's name, gender, and birth date; the names and addresses of its parents or guardians; the dates of admission; and the placement upon discharge.
- (8) If an *agency* changes ownership or executive or program director, all records of the children and families served by the *agency* must remain in a facility operated by the *agency*.

- (9) Prior to the dissolution of an *agency*, the executive or program director must inform, in writing, a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department of the location and storage of records on children or that the records have been transferred with the children to a new facility.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0076

Behavior Management (Excluding Adoption Agencies and Academic Boarding Schools)

- (1) An *agency* (defined in OAR 413-215-0006), except an *agency* licensed only to provide adoption services under OAR 413-215-0401 to 413-215-0481 or an *agency* licensed only as an academic boarding school under OAR 413-215-0201 to 413-215-0286, must meet all of the requirements of this rule.
- (2) The *agency* must have and follow behavioral management policies consistent with the requirements of this rule. The policies must include a description of the model, program, or techniques used (for instance, a level system or token economy), and its use of each of the following:
- (a) Non-violent crisis intervention. For purposes of this rule, non-violent crisis intervention means a nationally recognized, holistic system for defusing escalating behavior and safely managing physically aggressive behavior. The agency's choice of a non-violent crisis-intervention system must be conveyed to and approved by the Department.
 - (b) Use of time out, if applicable.
 - (c) Use of restraints, if applicable.
 - (d) Use of seclusion, if applicable.
- (3) The behavior management policy of the *agency* must identify appropriate and positive methods of behavior management based on a child's needs, developmental level, and behavior.
- (4) Chemical restraint, meaning the administration of medication for the management of uncontrolled behavior, is prohibited. Chemical restraint is different from the use of medication for treatment of symptoms of severe emotional disturbances or disorders.
- (5) Mechanical restraint, meaning the use of any physical device to involuntarily restrain the movement of a child as a means of controlling his or her physical activities, is prohibited.
- (6) Discipline Policy. The *agency* must have and follow a discipline policy that includes prohibitions against all of the following:

- (a) Spanking, hitting, or striking with an instrument.
 - (b) Committing an act designed to humiliate, ridicule, or degrade a child or undermine a child's self-respect.
 - (c) Punishing a child in the presence of a group or punishment of a group for the behavior of one child.
 - (d) Depriving a child of food, clothing, shelter, bedding, rest, sleep, toilet access, or parental contact.
 - (e) Assigning extremely strenuous exercise or work or requiring a child to spend prolonged time in one position likely to produce unreasonable discomfort.
 - (f) Using *physical restraint* (see subsection (8)(a) of this rule) or seclusion as discipline.
 - (g) Permitting or directing a child to punish another child.
 - (h) Using any other kind of harsh punishment.
- (7) If the *agency* utilizes seclusion and restraint as part of its behavior management practices, its use of seclusion and restraint must be in compliance with all applicable federal and state regulations and rules.
- (8) Physical restraint.
- (a) For the purposes of this rule, "physical restraint" means the act of restricting a child's voluntary movement as an emergency measure in order to manage and protect the child, or others from injury when no alternate actions are sufficient to manage the child behavior. "Physical restraint" does not include temporarily holding a child to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.
 - (b) Only *agency* staff who have been trained in a nationally recognized non-violent crisis-intervention system (described in subsection (2)(a) of this rule) may use *physical restraint*, except when *physical restraint* is necessary as a last resort to prevent a child from inflicting harm to self or others.
 - (c) The *agency* must report each use of *physical restraint* on a child to the child's parent or legal guardian within five working days, and must document the notification in the child's case file.
 - (d) Any use of *physical restraint* by a staff member of the *agency*, if the member is not trained in a nationally recognized non-violent crisis intervention system, must be reported to a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department within one working day of occurrence.

- (e) Limitations. The *agency* must have a policy that prohibits the application of a non-violent *physical restraint* to a child who has a documented physical condition that would contraindicate the use of that particular restraint, unless a qualified medical professional has previously and specifically authorized its use in writing for that child. Documentation of the authorization must be maintained in the child's record.
- (f) Physical Restraint Documentation. The policies of the *agency* must require a report on an incident report form of behavior that required the use of *physical restraint*. The report must include the specific attempts to de-escalate the situation before using *physical restraint* and the length of time the *physical restraint* was applied. The report must include the time the restraint started and the time it was terminated, the debriefing completed with the staff and child involved in the *physical restraint*, and documentation of a review by the executive director, program director, or designee.
- (g) Review. The policies of the *agency* must require that whenever a *physical restraint* is used on a child more than two times in seven days, there is a review by the executive director, the director's designee, or a management team to determine the suitability of the program for the child, whether modifications to the child's plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The *agency* must take appropriate action indicated by the review.

(9) Seclusion.

- (a) For the purposes of this rule, "seclusion" means that a child is involuntarily confined to an area or room, and is physically prevented from leaving.
- (b) Rooms used for seclusion must have adequate space, heat, light, and ventilation.
- (c) Seclusion may only be used to ensure the safety of the resident or others during an emergency safety situation.
- (d) Episodes of seclusion are limited to two hours for children age nine and older and one hour for children under the age of nine.
- (e) Visual monitoring of a child in seclusion must occur and be documented at least every fifteen minutes.
- (f) Each incident of seclusion must be documented in the child's clinical record, and must include the clinical justification for its use.
- (g) If incidents of seclusion used with an individual child cumulatively exceed five hours in five days, or a single episode of more than two hours for children age nine and older or more than one hour for children under age nine, the executive director or designee must review the case with those with clinical leadership responsibilities to evaluate the child's plan of care and make necessary adjustments.

(10) Time out.

- (a) For the purpose of this rule, "time out" means restricting a child to a designated area for a period of time to give the child an opportunity to regain self-control.
- (b) Time out must include frequent contact with staff.
- (c) Rooms used for time out must have adequate space, heat, light, and ventilation, and must not be capable of locking.
- (d) Time out episodes must be documented in the child's clinical record.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0081

Application for License

- (1) For purposes of this rule, "applicant" means an *agency* (defined in OAR 413-215-0006) that is in the process of applying for a license from the Department.
- (2) Application required.
 - (a) An *agency* must submit a completed application in each of the following situations:
 - (A) To obtain an initial license.
 - (B) To renew a license.
 - (b) An *applicant* must apply for a license on forms provided by the Department.
- (3) Documents to be submitted by a new applicant. The *applicant* must submit to the Department at the time of application all of the following documents:
 - (a) An application form that is complete and signed by the board chair and either the executive director or program director.
 - (b) A copy of the articles of incorporation, bylaws, amendments to the articles of incorporation and bylaws, and documents evidencing each name change or assumed business name.
 - (c) A list of the current board of directors, including names, addresses, telephone numbers, term, and office held.
 - (d) A complete personnel list with job titles.

- (e) An organization chart with job titles and staff names.
- (f) Authorization to obtain criminal histories and child abuse background checks on the executive director and program director.
- (g) A proposed annual budget adequate to finance the program. The budget must clearly indicate all sources of income and anticipated expenditures, as described in OAR 413-215-0026.
- (h) A written program description, including admission requirements, population served, gender and ages served, types of programs and services offered, the cost to clients (if any), the geographical area to be served, and the projected staffing pattern. The program description must identify all exclusions that would make a child ineligible to be served by the *agency*.
- (i) For new, expanding, or changing residential programs only, documentary proof of compliance with ORS 336.575, which requires notification of the superintendent or the district school board of possible effect of additional children and services, three months before children arrive at the agency's facility.
- (j) Written policies regarding the rights of children and families the *agency* would serve upon being licensed.
- (k) A grievance procedure for children and families.
- (l) Floor plans for any proposed facility.
- (m) A written policy for compliance with Interstate Compact on the Placement of Children (ICPC) (see ORS 417.200 to 417.260), if applicable.
- (n) A written policy for compliance with the Indian Child Welfare Act of 1978, Pub. L. No. 95-608, 92 Stat. 3069 (1978) (ICWA) (see OAR 413-070-0100 to 413-070-0260), if applicable.
- (o) Proof of adequate fire, auto, and liability insurance.
- (p) Emergency procedures.
- (q) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the application is for a license as an adoption agency (OAR 413-215-0001(2)(a)) or a foster care placement agency (OAR 413-215-0001(2)(b)). For an outdoor youth program (OAR 413-215-0001(2)(d)), these inspections reports are only required for each base camp component.
- (r) For the previous ten years, a copy of each report by a federal or state authority concerning a criminal charge, charge of child abuse, malpractice complaint, or lawsuit against the *agency*, a member of the agency's board of directors, or one of its employees related to the provision of services, and the basis and disposition of each action, if applicable.

- (s) Other documents or information requested by the Department.
- (4) Documents to be submitted to renew a license. A *licensee* must submit to the Department at the time of application for renewal all of the following documents:
- (a) An application renewal form that is complete and signed by the board chair and either the executive director or program director.
 - (b) A list of the current board of directors, including names, addresses, telephone numbers, term, and office held.
 - (c) A complete personnel list with job titles.
 - (d) An organization chart with job titles and staff names.
 - (e) Authorization to obtain criminal histories and child abuse background checks on the executive director and program director.
 - (f) Proof of adequate fire, auto, and liability insurance.
 - (g) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the re-application is for a license as an adoption agency (OAR 413-215-0001(2)(a)) or a foster care placement agency (OAR 413-215-0001(2)(b)). For an outdoor youth program (OAR 413-215-0001(2)(d)), these inspections reports are only required for each base camp component.
 - (h) Other documents or information requested by the Department.
- (5) Application fees.
- (a) The Department requires no fee to be paid by an *applicant* for the inspection conducted to determine whether to grant, withhold, suspend, or revoke a license required by these rules.
 - (b) An *agency* may be required to pay for inspections done by other governmental agencies, such as county health departments and the State Fire Marshal, that are necessary to obtain a license from the Department.
- (6) Processing the Application. Within 30 days of the receipt of an application and the documents described in section (3) or (4) of this rule, the Department will begin its review to determine whether the *applicant* is in *substantial compliance* (defined in OAR 413-215-0006) with the rules in Division 413-215. In connection with its evaluations, the Department may examine the records and files of the *applicant*, inspect and observe the physical premises, and interview children and families served by the *program* (defined in OAR 413-215-0006), the staff of the *applicant*, and persons in the community.

413-215-0086

Issuance of License

- (1) If the Department determines from the application and its review that the *agency* (defined in OAR 413-215-0006) is in compliance with the rules in Division 413-215, the Department issues a license to the *agency*. A license is effective for a two-year period subject to being suspended, revoked, or rendered invalid as provided in OAR 413-215-0121.
- (2) The license is not transferable and is not applicable to an entity other than the corporation to which the license is issued. The license is applicable only to a facility or site identified on the license.
- (3) The following information is included on the license:
 - (a) The incorporated name of the *licensee* (defined in OAR 413-215-0006), and its "assumed business name" if applicable.
 - (b) The address of the administrative office of the corporation.
 - (c) The address of each facility operated under authority of the license.
 - (d) The maximum number to be served at any one time in each facility, if applicable.
 - (e) The age and gender of the persons to be served by the *agency*.
 - (f) The types of services the *licensee* is authorized to provide.
 - (g) The effective date and term of the license.
 - (h) Restrictions imposed by the Department, if applicable.
 - (i) Such other information deemed appropriate by the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0091

Responsibilities of Licensees

A *licensee* (defined in OAR 413-215-0006) is responsible to do all of the following:

- (1) Meet with an employee of the Department upon request.

- (2) Notify the Department if the *agency* (defined in OAR 413-215-0006) employs a new executive director or program director and submit a request to the Department for a criminal history and child abuse background check on that person.
- (3) Make reports to the Department as necessary to ensure that the requirements for licensing are met.
- (4) Notify a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department within one business day if a critical event occurs. As used in this section, a "critical event" is a significant event occurring in the operation of an *agency* that is considered likely to cause complaints, generate concerns, or come to the attention of the media, law enforcement agencies, first responders, Child Protective Services, or other regulatory agencies. Compliance with this notification requirement does not satisfy the mandatory reporting requirements under ORS 419B.005 to 419B.045.
- (5) Notify a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department 30 days or more prior to the voluntary closure or change to inactive status of a *program* (defined in OAR 413-215-0006) of the *agency*.
- (6) Post a copy of the license in a common area at each facility operated by the *licensee* and retain the license at the administrative offices of the *licensee*.
- (7) Return the license to a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department immediately upon the suspension or revocation of the license, a change to inactive status, or a change of ownership or location.
- (8) Inform a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department of the discontinuation of services or the intent to reactivate a service after a period of inactivity.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0096

Renewal of License

- (1) To renew a license, a *licensee* (defined in OAR 413-215-0006) must submit to the Department an application for renewal prior to the expiration of the current license (see OAR 413-215-0081). If the Department receives an application for renewal before the license expires, the license remains effective until the Department issues a decision on the application.
- (2) Before the Department will consider an application for renewal of a license, the *licensee* must submit the documents required in OAR 413-215-0081(4) with an application to renew a license. The *licensee* must make available for examination by the Department

all records and files of the *agency* (defined in OAR 413-215-0006). The *licensee* must allow representatives of the Department to enter and inspect the physical premises, and interview children receiving services from the agency and agency staff.

- (3) Within 30 days of the receipt of the renewal application, the Department will begin its review to determine whether the *licensee* is in compliance with the rules in Division 413-215.
- (4) The Department will not renew a license if the *licensee* is not in *substantial compliance* (defined in OAR 413-215-0006) with the rules in Division 413-215 and other applicable law.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0101

Periodic Inspections

- (1) The Department will visit and inspect each *licensee* (defined in OAR 413-215-0006) and each facility operated by the *licensee* at least once every two years to determine whether the *program* (defined in OAR 413-215-0006) is maintained and operated in accordance with the rules in Division 413-215 and all other applicable rules.
- (2) Employees of the Department may conduct inspections and may visit the *licensee* at unannounced, irregular intervals.
- (3) The Department may also make informal visits, with notice to the *licensee*, in order to provide technical assistance to the *licensee*.
- (4) A *licensee* must allow employees of the Department, for the purposes of carrying out the inspections and investigations described in Division 413-215 and other applicable rules, to enter the facilities of the *agency* (defined in OAR 413-215-0006); inspect all accounts, records of work, and physical premises; and interview all children and staff.
- (5) An *agency* must make all of the following documents available for review during a site inspection:
 - (a) Personnel files on each employee.
 - (b) Criminal history, child abuse, and reference checks on volunteers.
 - (c) Board meeting minutes.
 - (d) A complete set of the policies and procedures of the *agency*.
 - (e) Records of the children and families served by the *agency*.
 - (f) Other documents or information requested by the Department.

- (6) A *licensee* must allow access by the State Fire Marshal or an authorized representative of the State Fire Marshal to all facilities maintained by the *licensee*, residents of its facilities, and records of the *licensee* that pertain to fire safety.
- (7) A *licensee* must allow access by a registered sanitarian, for the purpose of conducting a health and sanitation inspection, to the facilities maintained by the *agency*, the records of the *agency* pertaining to sanitation, and residents.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0106

Investigation of Complaints

- (1) The Department will investigate each report received of abuse, dereliction, or deficiency in or by an *agency* (defined in OAR 413-215-0006).
- (2) The Department will notify the executive director and board of directors of any needed corrective action, of the deadlines for completing the corrective action, and of any other actions the Department may initiate as a result of the investigation.
- (3) If there is a reasonable basis for sustaining a complaint against an organization or school that offers a residential program for children (regulated by ORS 418.327) that is not a *private child-caring agency* (defined in OAR 413-215-0006), the Department will initiate a contested case proceeding with the Office of Administrative Hearings.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 183.635, 418.205 - 418.327

413-215-0111

Corrective Actions

- (1) As a result of an inspection, or at any time, the Department may require a *private child caring agency* (defined in OAR 413-215-0006) to comply with a plan of correction that explains the actions required to be taken by the *private child caring agency* to be in compliance with the rules in Division 413-215 and other applicable statutes and rules.
- (2) The Department may establish deadlines by which the *private child caring agency* must correct the deficiencies noted in the corrective action plan.
- (3) Where a condition exists in an organization or school that offers a residential program for children (regulated by ORS 418.327) that immediately endangers the health or safety of a child, the director of the Department may issue an interim order without any notice, or with such notice as is practical under the circumstances, requiring the school

or organization to alter the conditions under which the child lives or receives schooling. Such interim emergency order may remain in force until a final order, after a hearing provided in OAR 413-215-0106(3), is entered.

- (4) Where the evidence at a contested case hearing (OAR 413-215-0106(3)) justifies such an order, an Administrative Law Judge may issue a proposed order and the Department may issue a final order that orders a private school or organization that offers a residential program for children (regulated by ORS 418.327) to correct the conditions not in conformity with standards.
- (5) If corrections required under section (3) or (4) of this rule are not made within time limits set by the final order, the Department may take any other lawful actions necessary for the protection of the child or children involved.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327, 418.995

413-215-0116

Civil Penalties

- (1) In addition to the actions described in OAR 413-215-0121, as provided in ORS 418.992, the Department may impose a civil penalty against a *private child-caring agency* (defined in OAR 413-215-0006) if subsections (a) and (b) of this section both apply:
 - (a) The *private child-caring agency* has committed one of the following acts:
 - (A) Violation of any of the terms or conditions of a license issued under ORS 418.205 to 418.310 and OAR 413-215-0086.
 - (B) Violation of any rule in division 413-215 or a general order of the Department against a *private child-caring agency*.
 - (C) Violation of any final order of the Department that pertains specifically to the *private child-caring agency*.
 - (b) The violation involves one of the following:
 - (A) Direct care or feeding of children.
 - (B) Staff to child ratios (OAR 413-215-0561).
 - (C) Sanitation involving direct care. (OAR 413-215-0541);
 - (D) The violation has occurred on two consecutive surveys on-site reviews of the *private child-caring agency*.
- (2) As required by ORS 418.995, the Department will consider the following factors in making a decision about the level of penalty imposed:

- (a) The past history of the *private child-caring agency* incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
 - (b) Any prior violations of statutes or rules pertaining to private child-caring agencies.
 - (c) The economic and financial conditions of the *private child-caring agency* incurring the penalty.
 - (d) The immediacy and extent to which the violation threatens the health, safety, and well being of the children served by the *private child-caring agency*.
- (3) Civil Penalty Schedule. For each violation by a *private child-caring agency*, the following civil penalty may be imposed:
- (a) \$100 per violation if all four subsections of section (2) of this rule favor the *private child-caring agency*.
 - (b) \$200 per violation if three subsections of section (2) of this rule favor the *private child-caring agency*.
 - (c) \$300 per violation if two subsections of section (2) of this rule favor the *private child-caring agency*.
 - (d) \$400 per violation if one subsection of section (2) of this rule favor the *private child-caring agency*.
 - (e) \$500 per violation if no subsections of section (2) of this rule favor the *private child-caring agency*.
- (4) In all cases in which the Department is considering the imposition of a civil penalty, the Department must prescribe a reasonable time period for the *private child-caring agency* to eliminate the violation:
- (a) Not to exceed 30 days after the first notice of violation; or
 - (b) In cases where the violation requires more than 30 days to correct, such time as is specified in a plan of correction found acceptable by the Department.
- (5) A civil penalty imposed under this rule may be canceled or reduced under terms or conditions determined by the Department to be proper and consistent with public health and safety.
- (6) A civil penalty will be imposed by written notice of violation and assessment of penalty provided to the *private child-caring agency*. Such notice shall be sent by registered or certified mail and will include:
- (a) Reference to the statute, rule, standard or order involved;

- (b) A short statement of the matters asserted or charged;
 - (c) A statement of the amount of the penalty imposed; and
 - (d) A statement of the right of the *private child-caring agency* to request a hearing.
- (7) As provided in ORS 418.993, the *private child-caring agency* to which the notice of violation and assessment of penalties is addressed has 10 days from the date of service of the notice in which to make a written request for a hearing. All such hearings shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.
- (8) A civil penalty imposed under this rule is due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A *private child-caring agency* against whom a civil penalty is to be imposed shall be served a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided in ORS 183.415.
- (9) If the *private child-caring agency* does not request a hearing, or if after such a hearing the *private child-caring agency* is found to be in violation of a license, rule or order as specified in the notice, the Department will make a final order imposing the penalty.
- (10) Judicial review of civil penalties shall be as provided under ORS 183.480. The reviewing court may, in its discretion, reduce the amount of the penalty.
- (11) Civil penalties are payable within 10 days after the order of the Department is entered, unless the order is appealed and is sustained or modified, in which case the penalty is payable within 10 days after the court decision is rendered.
- (12) If the order of civil penalty is not appealed or sustained on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the *agency* incurring the penalty and the amount of the penalty in the County Clerk Lien Record.
- (13) Upon recording an order in the County Clerk Lien Record, the Department may initiate proceedings to enforce the order by filing in the Circuit Court for the county where the order is recorded a certified copy of the civil penalty order and a certified copy of the recording made in the County Clerk Lien Record. Subject to any other requirements that may apply to the enforcement proceedings sought by the Department, the court shall then proceed as with judgments issued by the court. Enforcement proceedings available to the Department through this procedure shall include:
- (a) Writ of Execution proceedings under ORS 23.030 to 23.105 and ORS 23.410 to ORS 23.600;
 - (b) Supplementary proceedings under ORS 23.710 to 23.730;
 - (c) Garnishee proceedings under ORS 29.285 to 29.335; and

- (d) Renewal of judgment under ORS 18.360.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.994

Stats. Implemented: ORS 418.205 - 418.327, 418.992 - 418.998

413-215-0121

Denial, Suspension, or Revocation of License

- (1) Except as provided in section (2) of this rule:
- (a) The Department may deny, suspend, or revoke a license upon finding that an *agency* (defined in OAR 413-215-0006) is not in *substantial compliance* (defined in OAR 413-215-0006) with the rules in Division 413-215.
 - (b) If an *agency* operates more than one facility, the Department may suspend, revoke, or deny the license only as it applies to the facility or facilities out of substantial compliance with applicable statutes or rules.
- (2) The Department may suspend or revoke the license of an organization or school that offers a residential program for children (regulated by ORS 418.327) that is not acting as a *private child-caring agency* only after corrections required under OAR 413-215-0111(4) are not made within time limits set by the Department or an Administrative Law Judge.
- (3) Immediate Suspension or Revocation. In the event of an imminent danger to the health or safety of children or families receiving services or of the public, the Department may take immediate action to suspend or revoke the license of a *private child-caring agency*.
- (4) An *agency* may appeal the decision to deny, suspend, or revoke a license in a contested case hearing subject to the provisions of ORS Chapter 183.
- (5) To request a contested case hearing, as provided in ORS Chapter 183, the *agency* must provide the Department's Licensing Unit a written request for a hearing within 30 days of the date that the Department mailed the notice of denial, suspension, or revocation. If the Department does not receive a request for a contested case hearing within 30 days of the date that the Department mailed the notice of denial, suspension or revocation, the *agency* has waived the right to a hearing, except as provided in OAR 137-003-0528(1).
- (6) Except for an *agency* that retains a facility with an active license under subsection (1)(b) of this rule, if the Department revokes a license, the *agency* may not apply under any name for licensure under this chapter of rules for the three years following the effective date of revocation.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0126

Temporary, Inactive, and Amended Licenses

(1) Temporary license.

- (a) The Department may issue a temporary license when the application by an *agency* (defined in OAR 413-215-0006) for a license is approved, and the *agency* does not hold a current, valid license. A temporary license is valid for a period not to exceed six months. Use of a temporary license allows the *licensee* (defined in OAR 413-215-0006) to start providing services authorized by the temporary license. To obtain a temporary license, an *agency* must meet all requirements of the rules in Division 413-215 except those that can be met only while providing services.
- (b) Once an *agency* with a temporary license begins providing services, the *licensee* must request an inspection by the Department for the purpose of verifying its compliance with the rules in Division 413-215. Upon verification, the Department will issue a license valid for two years, as described in OAR 413-015-0086.

(2) Inactive license.

- (a) An *agency* is considered to have an inactive license if the *agency* discontinues or fails to provide a service for which the *agency* is licensed for a period of 180 days.
- (b) An *agency* no longer providing services for which it is licensed must immediately inform a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department.
- (c) In order to reactivate an inactive license, an *agency* must request an inspection by the Department for the purpose of verifying its compliance with all applicable Department rules. The *agency* may not resume providing services until the Department has verified in writing that the *agency* is in compliance with all applicable Department rules and reinstated the *agency* to active status.

(3) Amended license.

- (a) The Department may require additional documentation of a *licensee* if the Department is considering the amendment of a license.
- (b) The Department may issue an amended license to a *licensee* that has an inactive facility or *program* (defined in OAR 413-215-0006), but retains another facility or *program* with an active license.
- (c) The Department may issue an amended license upon written request of the *licensee* to accommodate changes in the factors upon which an existing license is based.

- (4) The term of a temporary, inactive, or amended license is not extended by any action described in this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

413-215-0131

Exceptions

- (1) The Department may waive a requirement of a rule in Division 413-215 upon written request of an *agency* (defined in OAR 413-215-0006). The request must identify the rule, give the reasons that justify the exception, state the length of time for which the exception is requested, and explain how the needs of children and families would be affected if the *agency* did not comply with the rule.
- (2) The Department may approve a request for an exception upon a determination that the failure of an *agency* to comply with the rule does not pose a threat to the health, safety, and welfare of children and families. In determining whether to grant an exception, the Department additionally must take into consideration:
- (a) Whether the *agency* has consistently been in compliance with licensing regulations and has a history or provision of services that meet the best interests of children.
 - (b) Innovative approaches of the *agency*.
 - (c) The availability of services to children and families similar to the services provided by the *agency*.
 - (d) The impact of the rule exception sought.
 - (e) Whether the Department may waive application of the rule under state statute or federal law.
- (3) An *agency* granted an exception may, as a condition of obtaining and retaining the exception, be required to provide specific information on its operation under the exception.
- (4) An *agency* may operate under an exception for a period of time set by the Department, not to exceed the term of its current license.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Contact(s):

- **Name:** CAF Reception; **Phone:** 503-945-5600

Policy History

- Renumbered from rules in [II-E.1](#) and [II-G.1](#)